



REMARKS

Claims 1-43 are pending in this application, of which claims 1 and 2 are independent. Claims 1, 3, 7, 9, 11, 13, 15, 17, 19, 21, 23, 25, 27, 29, 31, 33, 35, 37, 39 and 41 stand withdrawn from consideration pursuant to the previous restriction requirement.

Claims 4, 5, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 26, 28, 30, 32, 34, 36, 38, 40, 42 and 43 were objected to and would be allowed if recast in independent form. The Examiner indicated that claim 43 would be allowed if recast in independent form and included subject matter of the elected claims and not the withdrawn claims.

Claim 2 was rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Itoh (U.S. Patent No. 6,042,234, hereinafter "Itoh"). In the statement of the rejection, the Examiner referred to FIGS. 1-3 of Itoh, asserting the disclosure of a color separating and mixing element corresponding to that defined in claim 2. Applicants respectfully traverse.

In response to Applicants' arguments submitted on February 21, 2006, the Examiner, at page 5 of the Office action, maintained the rejection under 35 U.S.C. § 102. The Examiner asserted that claim 2 does not require that the light separating and synthesizing optical element have both polarization dependency and wavelength selectivity. The Examiner asserted that claim 2 only requires that at least three lights are incident on the cube, one of which is incident on the first face, and two that are incident on the second face. The Examiner further asserted that claim 2 does not require that their color be different or that their polarization be different, but rather, the claim only requires that they behave in a specific way after reflecting off of the first through third optical function surfaces. Applicants request reconsideration and withdrawal of the

rejection. Moreover, Applicants respectfully submit that the Examiner's rejection is predicated upon an apparent misunderstanding of the present application and the teachings of Itoh.

Independent claim 2 recites the following:

A color separating and mixing element comprising, in its transparent cube, a first optical function surface and a second optical function surface which are unparallel to each other, first and second faces of the cube being respectively taken as light incidence surfaces, third, fourth and fifth faces of the cube being respectively taken as light incidence/output surfaces, and a sixth face of the cube being taken as a light output surface,

one light in the primary color which is predetermined polarized light incident on the first face of said cube passing through the first optical function surface and being emitted from the third face of the cube, said one light in the primary color returned after the direction of polarization thereof is rotated by 90° being received in the third face of the cube, and the one light in the primary color being reflected by the first optical function surface and being emitted from said light output surface,

one, which is predetermined polarized light, of two lights in the primary colors incident on the second face of said cube passing through the second optical function surface and being emitted from the fourth face of the cube, said one light in the primary color returned after the direction of polarization thereof is rotated by 90° being received in the fourth face of the cube, the one light in the primary color being reflected by the second optical function surface and being emitted from said light output surface, and

the other one, which is predetermined polarized light, of the two lights in the primary colors incident on the second face of said cube being reflected by the second optical function surface and being emitted from the fifth face of the cube, said other one light in the primary color returned after the direction of polarization thereof is rotated by 90° being received in the fifth face of the cube, and the other one light in the primary color passing through the second optical function surface and being emitted from said light output surface.

The polarized light separating and synthesizing optical element of Itoh separates and synthesizes only by polarization dependency. In other words, the polarized light separating and synthesizing optical element of Itoh does not have selectivity related to color (wavelength selectivity). On the contrary, the first optical function surface and the second optical function surface recited in claim 2, have both polarization dependency and wavelength selectivity.

Therefore, claim 2 of the present application and Itoh have completely different configuration and function.

The Examiner's attention is respectfully invited to page 14, [0037]. As shown in Fig. 1 of the present application, a color separating and mixing element 50 comprises, in its transparent glass cube, a first optical function surface 50a composed of a multilayer dielectric film or the like formed on a dividing surface for dividing the cube into two triangular prisms, and a second optical function surface 50b composed of a multilayer dielectric film or the like formed on another dividing surface. For example, the first optical function surface 50a is arranged so as to connect an upper side on the innermost side of the transparent cube and a lower side on the front side thereof to each other, as shown in Fig. 2 (a). The first optical function surface 50a has the function of transmitting both P-polarized light and S-polarized light with respect to red light, has the function of transmitting both P-polarized light and S-polarized light with respect to green light, and has the function of transmitting P-polarized light and reflecting S-polarized light with respect to blue light. On the other hand, the second optical function surface 50b is arranged so as to connect a longitudinal side on the left innermost side of the transparent cube and a longitudinal side on the right front side thereof to each other, as shown in Fig. 2 (b). The second optical function surface 50b has the function of transmitting P-polarized light and reflecting S-polarized light with respect to red light, has the function of transmitting P-polarized light and reflecting S-polarized light with respect to green light, and has the function of transmitting both P-polarized light and S-polarized light with respect to blue light.

The above argued differences between the claimed subject matter and the device of Itoh undermines the factual determination that Itoh identically discloses a device corresponding to that claimed. *Minnesota Mining & Manufacturing Co. v. Johnson & Johnson Orthopaedics Inc.*,

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976 F.2d 1559, 24 USPQ2d 1321 (Fed. Cir. 1992); *Kloster Speedsteel AB v. Crucible Inc.*, 793 F.2d 1565, 230 U.S.P.Q. 86 (Fed. Cir. 1986). Applicants, therefore, submit that the imposed rejection of claim 2 under 35 U.S.C. § 102 for lack of novelty as evidenced by Itoh is not factually viable and, hence, solicit withdrawal thereof.

It is believed that all pending claims are now in condition for allowance. Applicants therefore respectfully request an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicants' representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Brian K. Seidleck
Registration No. 51,321

600 13th Street, N.W.
Washington, DC 20005-3096
Phone: 202.756.8000 BKS:ldw
Facsimile: 202.756.8087
Date: October 2, 2006

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